IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KIM SEGEBARTH and SUSAN STONE, individually and on behalf of all others similarly situated,	:	
Plaintiffs,	:	
v.	:	**Civ. No. 19-5500**
CERTAINTEED LLC,	:	
Defendant.	:	

O R D E R

On November 21, 2019, Plaintiff Kim Segebarth brought this class action against Defendant CertainTeed LLC, challenging CertainTeed's conduct and warranties related to its Fiberglass Horizon Shingles. (Compl., Doc. No. 1.) Later, Plaintiff Susan Stone joined the suit as a second named plaintiff, and Kathryn Eloff, as Personal representative of the Estate of Kim Segebarth, replaced Mr. Segebarth following his death. (Doc. Nos. 25, 28, 29.) The Parties now ask me to certify conditionally a Settlement Class and approve preliminarily the Parties' Proposed Settlement. Because I conclude preliminarily that the Proposed Settlement Class meets the requirements of Rule 23; the Proposed Settlement is within the range of reasonableness; and the notice provisions are consistent with the requirements of due process and Rule 23, I will grant Plaintiffs' unopposed Motion.

I. BACKGROUND

As alleged, in 2008, Mr. Segebarth and Ms. Stone both purchased newly constructed homes in Cutters Creek, a planned unit development in South Euclid, Ohio. (Am. Compl. ¶¶ 4, 16.) In 2017, they each received a letter from the Cutters Creek developer informing them that a homeowner in the development had recently replaced his roof after he discovered that its shingles had loose granules and were cracking. (Am. Compl. ¶ 5.) The letter further stated that Segebarth's

and Stone's roofs were constructed with the same CertainTeed Horizon Shingles. (Id.) Segebarth and Stone believed that the developer then submitted a warranty claim on behalf of the affected homeowners. (Id. at ¶¶ 6, 18.)

When Segebarth did not receive updates about the warranty claim, he contacted CertainTeed himself. (Id. at ¶ 7-8.) Segebarth also consulted two private roofing inspectors, both of whom recommended he replace his roof. (Id. at 9.) Based on Segebarth's inquiry, CertainTeed opened a warranty claim for the affected Cutters Creek homes. (Id. at ¶ 8.) CertainTeed inspected Segebarth's roof and concluded that the Horizon Shingles exhibited some "overlay" wear but that the waterproofing function of the shingles was not compromised and the integrity of the roof was not threatened. (Id. at ¶ 11.) CertainTeed thus denied Segebarth's warranty claim. (Id.)

Stone was similarly notified that CertainTeed had inspected the worn shingles on her roof and concluded that the Horizon Shingles had suffered only overlay wear. (Id. at ¶ 20.) CertainTeed denied Stone's claim. (Id.) CertainTeed nonetheless offered Segebarth and Stone similar settlements, which Plaintiffs rejected. (Id. at ¶¶ 12, 21.)

Plaintiffs pled the following claims on behalf of a nationwide class (unless otherwise specified) in the Amended Complaint:

- Count 1: CertainTeed breached Horizon Shingles express warranties by "failing to provide customers with a product that would perform the basic intended and essential functions of shingle products for the specified warranty period." (Am. Compl. at ¶¶ 74-81);
- Count 2: CertainTeed breached the implied warranty of merchantability because the Horizon Shingles "were not of merchantable quality or fit for their ordinary and intended use." (Id. at ¶¶ 82-87);
- Count 3: CertainTeed negligently designed, manufactured, and marketed the Horizon

Shingles. (Id. at ¶¶ 88-94);

- Count 4: CertainTeed was unjustly enriched by its "wrongful conduct." (Id. ¶¶ 95-99);
- Count 5: CertainTeed "knowingly, fraudulently and actively misrepresented, omitted and concealed from consumers material facts relating to the quality of" the Horizon Shingles and their "warranty process." (Id. at ¶¶ 100-106);
- Count 6: CertainTeed negligently "misrepresented, omitted and concealed from consumers material facts relating to the quality of" Horizon Shingles. (Id. at 107-113);
- Count 7 (brought on behalf of the proposed Ohio subclass only): CertainTeed engaged in deceptive business practices in violation of Ohio's Consumer Sales Practices Act. (Id. at ¶¶ 114-125);
- Count 8 (brought as to the named Plaintiffs only): CertainTeed engaged in deceptive business practices in violation of Ohio's Deceptive Trade Practices Act. (Id. at ¶¶ 126-131)
- Count 9 (brought on behalf of the proposed Ohio subclass only): CertainTeed violated Ohio's Consumer Sales Practices Act by designing and marketing shingles with a dangerous defect. (Id. at ¶¶ 132-137); and
- Count 10 (brought on behalf of the nationwide class and the proposed Pennsylvania subclass): CertainTeed engaged in unfair methods of competition in violation of Pennsylvania's Unfair Trade Practices Consumer Protection Law. (Id. at ¶¶ 138-149.)

Plaintiffs seek "economic and compensatory damages," "restitution," "punitive damages," "injunctive and declaratory relief," "reasonable attorneys' fees and reimbursement of all costs," and "such other and further relief as this Court deems just and appropriate." (Id. at 150-155.)

On March 4, 2022, I held a preliminary fairness hearing on Plaintiffs' Preliminary

Approval Motion. (Doc. Nos. 31, 40, 41.) During the hearing, I expressed concern that I could not determine the benefits the Proposed Settlement provided to the Proposed Class Members. (Prelim. Approval Hrg. Tr. 20:5–19, Mar. 4, 2022, Doc. No. 41.) I then ordered the Parties to submit additional briefs in support of the Settlement. (Doc. No. 39.) The Parties submitted those briefs on May 3, 2022. (Doc. Nos. 44–48.) These submissions have allayed my concern.

II. LEGAL STANDARDS

Although Defendant does not oppose class certification, I must independently determine that the Proposed Settlement Class satisfies the requirements of Rule 23. See Amchem v. Windsor, 521 U.S. 591, 620 (1997); In re Prudential Ins. Co. of Amer. Sales Practices Litig., 148 F.3d 283, 308 (3d Cir. 1998) ("[A] district court must . . . find [that] a class satisfies the requirements of Rule 23, regardless [of] whether it certifies the class for trial or settlement.").

I must then determine whether to approve preliminarily the "[t]he claims, issues, or defenses of [the] certified class." Fed. R. Civ. P. 23(e). At preliminary approval, I must determine if there are any obvious deficiencies and whether the "settlement falls within the range of reason." Gates v. Rohm and Haas Co., 248 F.R.D. 434, 438 (E.D. Pa. 2008) (quotations omitted); see also Manual for Complex Litigation, § 21.632 (4th ed. 2004). "The preliminary approval decision is not a commitment [to] approve the final settlement." Gates, 248 F.R.D. at 438. Final approval requires a more rigorous, multifactor assessment of the fairness, adequacy, and reasonableness of a proposed class action settlement; "the standard for preliminary approval is far less demanding." Id. at 444 n.7; see Girsh v. Jepson, 521 F.2d 153, 156-57 (3d Cir. 1975).

III. DISCUSSION

A. Class Certification

Plaintiffs seek to certify conditionally the following Proposed Class for settlement

purposes: "All individuals or entities that own a building in the United States on which CertainTeed Fiberglass Horizon Shingles, excluding Horizon Organic Shingles, were installed between 1995 and 2010 that are eligible for relief under the Limited Warranty applicable to the Shingles installed on their building." (Doc. No. 31-1 at 6; Settlement Agreement at 3, Doc. No. 31-4.) Excluded from the class are: (1) "[a]ll individuals and entities that timely opt-out of" the Settlement; (2) "[a]ll persons who were or are builders, developers, contractors, installers, wholesalers or suppliers except when the Shingles are installed on their personal residence or commercial building;" (3) "CertainTeed employees;" and (4) "[t]he Judge to whom this case is assigned and any member of the Judge's immediate family." (Settlement Agreement at 3.)

The Proposed Class must satisfy the requirements of Rule 23(a) and at least one of the three subsections of Rule 23(b).

Rule 23(a) Requirements

Federal Rule of Civil Procedure 23(a) requires that the four following factors be satisfied by any proposed class:

> (1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class.

Here, the Proposed Class satisfies each of these requirements.

First, the Proposed Class contains estimated 500,000 to 600,000 property owners, a number that easily makes "joinder of all members [] impracticable." (Doc. No. 31 at 27; Schaffer Decl. ¶ 11, Doc. No. 31-2); Fed. R. Civ. P. 23(a)(1); see also In re Modafinil Antitrust Litig., 837 F.3d 238, 249-50 (3d Cir. 2016) ("[G]enerally if the named plaintiff demonstrates that the potential number of plaintiffs exceeds 40, the first prong of Rule of 23(a) has been met.") (quoting Stewart

v. Abraham, 275 F.3d 220, 226-27 (3d Cir. 2001)).

Second, "there are questions of law or fact common to the class." Fed. R. Civ. P. 23(a)(2); see also Wal-Mart Stores, Inc. v. Dukes, 564 U.S. 338, 350 (the claims of the class must "depend upon a common contention … of such a nature that it is capable of classwide resolution"). Questions common to the Proposed Class include: (1) whether the Horizon Shingles are defective; (2) whether CertainTeed breached its 25- and 30-year warranties; (3) whether CertainTeed had a duty to disclose the alleged defects; and (4) whether Plaintiffs suffered economic harm due to the defective Horizon Shingles. (Doc. No. 31 at 27-28); see Marcus v. BMW of North America, LLC, 687 F.3d 583, 597 (3d Cir. 2012) (Court found the commonality prong was satisfied where common questions included "whether Bridgestone RFTs are 'defective,' whether the defendants had a duty to disclose those defects, and whether the defendants did in fact fail to disclose those defects.").

Third, the proposed Class Representatives' claims are typical of the Proposed Class. Fed. R. Civ. P. 23(a)(3). "The typicality inquiry is intended to assess whether the action can be efficiently maintained as a class and whether the named plaintiffs have incentives that align with those of absent class members so as to assure that the absentees' interests will be fairly represented." Baby Neal for & by Kanter v. Casey, 43 F.3d 48, 57 (3d Cir. 1994). CertainTeed's conduct and the Horizon Shingles' premature wear are central to the Class Representatives' and Proposed Class Members' claims alike. (Doc. No. 31 at 31); see Hoxworth v. Blinder, Robinson & Co., Inc., 980 F.2d 912, 923 (3d Cir. 1992) ("[f]actual differences will not render a claim atypical if the claim arises from the same event or practice or course of conduct that gives rise to the claims of the class members, and if it is based on the same legal theory.") (internal quotations omitted). Moreover, there is no indication that "a unique defense [would] play a significant role at trial."

Beck v. Maximus, Inc. 457 F.3d 291, 300 (3d Cir. 2006).

Finally, Ms. Eloff, as Personal Representative for Segebarth, and Stone are adequate Class Representatives because they are Class Members and do not have any identifiable "intra-class conflicts" precluding them from defending the Class's interests. Fed. R. Civ. P. 23(a)(4); Dewey v. Volkswagen Akteingesellschaft, 681 F.3d 170, 184-85 (3d Cir. 2012). Moreover, proposed Class Counsel have substantial experience with class actions and products liability litigation, and their performance thus far gives me little reason to question their adequacy. (Doc. Nos. 31 at 33, 32 at 2-3; Schaffer Decl. ¶¶ 2-7, Doc. No. 31-2; Doc. Nos. 31-5, 31-6, 31-7.)

Rule 23(b) Requirements

The Proposed Class must also satisfy at least one of the three subsections of Rule 23(b). Plaintiffs seek to certify the Class under Rule 23(b)(3). I find that certification is proper.

These claims may be certified under Rule 23(b)(3) because "questions of law or fact common to class members predominate over any questions affecting only individual members," and because "a class action is superior to other available methods for fairly and efficiently adjudicating" this matter. Fed. R. Civ. P. 23(b)(3). I have considered:

> (A) the class members' interests in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already begun by or against class members; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and (D) the likely difficulties in managing a class action.

Fed. R. Civ. P. 23(b)(3)(A)-23(b)(3)(D).

First, "questions of law or fact common to class members predominate." Fed. R. Civ. P. 23(b)(3). "Rule 23(b)(3)'s predominance requirement imposes a more rigorous obligation [than Rule 23(a)(2)'s commonality element] upon a reviewing court to ensure that issues common to the class predominate over those affecting only individual class members." Sullivan v. DB

Investments, Inc., 667 F.3d 273, 297 (3d Cir. 2011). Moreover, "the focus of the predominance inquiry is on whether the defendant's conduct was common as to all of the class members, and whether all of the class members were harmed by the defendant's conduct." Id. at 298. Plaintiffs allege, *inter alia*, that CertainTeed breached the Horizon Shingles express warranties by "failing to provide customers with a product that would perform the basic intended and essential functions of shingle products for the specified warranty period;" negligently designed, manufactured, and marketed the Shingles; and "knowingly, fraudulently and actively misrepresented, omitted and concealed from consumers material facts relating to the quality of" the Horizon Shingles and their "warranty process." (Am. Compl. at ¶¶ 74-81, 88-94, 100-106). This conduct raises common factual questions and, if true, resulted in a common injury to all class members.

Second, a class action is superior to other methods of adjudication in this matter. The Parties estimate that the Proposed Class includes 500,000 to 600,000 Class Members. (Doc. No. 31 at 27; Schaffer Decl. ¶ 11, Doc. No. 31-2.) If even a fraction of those Members chose to litigate their claims individually, it would significantly burden the courts. Moreover, the Proposed Settlement provides Proposed Class Members with a clear process by which to satisfy their claims. See Good v. Nationwide Credit, Inc., 314 F.R.D. 141, 154 (E.D. Pa. 2016) (quoting Amchem v. Windsor, 521 U.S. 591, 620 (1997) ("When assessing superiority and '[c]onfronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems, … for the proposal is that there be no trial.'").

In sum, the Proposed Class meets Rule 23's requirements. Accordingly, solely for the purpose of settlement in accordance with the Settlement Agreement, and pursuant to Rule 23(a) and Rule 23(b)(3), I will certify conditionally the Proposed Class.

B. Class Counsel

Having considered proposed Class Counsel's substantial litigation experience and the Rule 23(g)(1)(A) factors, I will appoint as Class Counsel: Charles E. Schaffer of Levin Sedran & Berman, Charles J. LaDuca of Cuneo Gilbert & LaDuca, and Michael A. McShane of Audet & Partners, LLP. See Fed. R. Civ. P. 23(c)(1)(B), 23(g). As set out in Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and related filings, Class Counsel have extensive experience and have worked diligently to litigate Plaintiffs' claims, including conducting substantial discovery and reaching the pending Settlement Agreement. (Doc. No. 31 at 14-16; Schaffer Decl. ¶¶ 2-7, Doc. No. 31-2; Doc. Nos. 31-5, 31-6, 31-7; Prelim. Approval Hrg. Tr. at 15:19–16:4, Mar. 4, 2022, Doc. No. 41.)

C. Preliminary Approval of the Settlement Agreement

The final approval of a class action settlement requires a finding that the settlement is fair, adequate, and reasonable. Walsh v. Great Atl. & Pac. Tea Co., 726 F.2d 956, 965 (3d Cir. 1983). "In evaluating a proposed settlement for preliminary approval, however, [I am] required to determine only whether 'the proposed settlement discloses grounds to doubt its fairness or other obvious deficiencies.'" Mehling v. New York Life Ins. Co., 246 F.R.D. 467, 472 (E.D. Pa. 2007) (quoting Thomas v. NCO Fin. Sys., Civ. No. 00-5118, 2002 WL 1773035, at *14 (E.D. Pa. July 31, 2002). Unduly preferential treatment of class representatives, excessive attorney compensation, and the unreasonableness of the proposed settlement are "obvious deficiencies." (Id.) I must also consider whether: "(1) the negotiations occurred at arm's length; (2) there was sufficient discovery; (3) the proponents of the settlement are experienced in similar litigation; and (4) only a small fraction of the class objected." In re General Motors Corp. Picked-Up Fuel Tank Prods. Liab. Litig., 55 F.3d 768, 785 (3d Cir. 1995).

Terms of the Settlement

Upon review of the record and all the Parties' submissions, and after a fairness hearing, I can find no ground to doubt the fairness of the Proposed Settlement, nor are there "other obvious deficiencies." Mehling, 246 F.R.D. at 472. The Parties have negotiated a claims-made Settlement which creates a claims process through which Class Members would receive a five-year extension on their Horizon Shingles warranties. (Doc. No. 31 at 5; Settlement Agreement, Doc. No. 31-4.) Class Members would also receive compensation based on: (1) the quantity of Shingles installed that exhibit qualifying damage; (2) how long the Shingles have been installed; and (3) whether the Class Member previously filed warranty claims with CertainTeed. (Id.) The Proposed Settlement also requires CertainTeed to provide Class Counsel with annual progress reports and allows Class Counsel to audit CertainTeed's administration of the Settlement. (Id. at 5, 8.) After I expressed concern at the Preliminary Fairness Hearing, the Parties amended the Settlement Agreement to provide an additional protection for Class Members: "If CertainTeed denies a claim in whole or in part because [a Class Member's] Shingles do not exhibit Qualifying Damage, the [Class Member] may appeal the denial to an independent appeal reviewer agreed upon by the parties." (Def. Supp. Mem. in Support of Prelim. Approval, Exhibit B, Doc. No. 48-3.)

In exchange, Class Members would release and dismiss with prejudice all claims related to this action and every claim of liability arising out of the "purchase, installation, and/or use of the CertainTeed Fiberglass Horizon Shingles." (Doc. No. 31-4 at 7.) Although the release includes claims not certified as class claims, "[i]t is settled law within this Circuit that 'a judgment pursuant to a class settlement can bar later claims based on the allegations underlying the claims in the settled class action.'" Scott v. Bimbo Bakeries USA, Inc., No. 10-3154. 2015 WL 8764491, at *3 (E.D. Pa. Dec. 15, 2015) (quoting In re Prudential Ins. Co. of Am. Sales Practice Litig., 261 F.3d 355, 366 (3d Cir. 2001)).

Under the terms of the Settlement, Class Counsel will apply for $1,690,000 in fees, costs, and incentive awards for the proposed Class Representatives. (Doc. Nos. 31 at 7, 31-4 at 12-13.) CertainTeed will pay these fees separately from the relief granted to Settlement Class Members. (Id.) The requested amount was negotiated only after the material terms of the Settlement were agreed upon. (Doc. No. 31 at 7; Schaffer Decl. ¶ 13, Doc. No. 31-2.) Counsel believe that the Proposed Settlement represents between $119,444,440 and $218,583,252 in benefits to the Class. (Plaintiffs' Supp. Br. at 8, Doc. No. 45.)

Although I will consider arguments as to the fairness of the proposed compensation before final approval, these amounts are not facially unreasonable. See In re Diet Drugs, 582 F.3d 524, 541 (3d Cir. 2009) ("In determining what constitutes a reasonable percentage fee award, a district court must consider…ten factors" including "the skill and efficiency of the attorneys involved;" "the complexity and duration of the litigation;" and "the awards in similar cases"); Dungee v. Davidson Design & Development, Inc., C.A. No. 10-325-GMS, 2016 WL 9180448, at *2 (D. Del. Feb. 16, 2016) (Awarding $1,118,936.40 in attorneys' fees and costs, excluding incentive awards, in a claims-made settlement); Taha v. Bucks Cty. Pa., Civ. No. 12-6867, 2020 WL 7024238, at *8 (E.D. Pa. Nov. 30, 2020) (Awarding $6,304,594 in attorneys' fees and costs, excluding incentive awards, in a claims-made settlement).

Other Factors

The Settlement was reached after a full day of mediation and six months of follow-up conversations mediated by retired Magistrate Judge Diane Welsh. (Doc. No. 31 at 4, 16; Schaffer Decl. ¶ 12, Doc. No. 31-2.) Class Counsel also hired building material experts to analyze sample Horizon Shingles. (Doc. No. 31 at 3-4; Schaffer Decl. ¶ 11, Doc. No. 31-2.) The Parties conducted substantial discovery, including document production related to the Horizon Shingles product

design and marketing and field inspection of Plaintiffs' roofs and Shingles. (Doc. No. 31 at 3, Schaffer Decl. ¶ 11, Doc. No. 31-2; Prelim. Approval Hrg. Tr. at 22:19–23:12.) "Thus, the parties have conducted sufficient discovery to estimate the merit and value of the Plaintiffs' case against [Defendant] and reach a reasonable settlement." Gates v. Rohm & Haas Co., 248 F.R.D. 434, 444 (E.D. Pa. 2008) ("settlement negotiations included two full days of mediation before an experienced mediator"). Finally, as I have discussed, Class Counsel in this matter are experienced in products liability class action litigation. (Doc. No. 31 at 14-16; Schaffer Decl. ¶¶ 2-7, Doc. No. 31-2; Doc. Nos. 31-5, 31-6, 31-7.)

Accordingly, the Settlement is preliminarily approved as fair, reasonable, and adequate; free of collusion to the Class Members' detriment; and within the range of possible final judicial approval.

D. Class Notice

I "must direct notice in a reasonable manner to all class members who would be bound by [the proposed settlement]." Fed. R. Civ. P. 23(e)(1)(B). To satisfy due process concerns, "notice to class members must be reasonably calculated under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Mehling v. New York Life Ins. Co., 246 F.R.D. 467, 477 (E.D. Pa. 2007) (quotation omitted).

The proposed Notice of Class Action Settlement satisfies the requirements of Rule 23(e) and due process and is otherwise fair and reasonable. (Doc. Nos. 31, 32; Schaffer Decl., Doc. No. 31-2.) The proposed Notice Plan adequately informs Class Members of, *inter alia*, the subject of the lawsuit, the terms of the settlement, their right to opt out of the settlement, where to find additional information, and details of the final fairness hearing, including how to present objections. See Mehling, 246 F.R.D. at 477 ("[N]otice must inform class members of (1) the

nature of the litigation; (2) the settlement's general terms; (3) where complete information can be located; and (4) the time and place of the fairness hearing and that objectors may be heard.") (quotations and citations omitted); see also Marino v. COACH, Inc., No. 16-cv-1122, 2021 WL 827647 at *1 (S.D.N.Y. Mar. 3, 2021) (finding that Notice administered by Angeion Group that combined direct and publication notice "provided the best notice practicable under the circumstances and was reasonably calculated to communicate actual notice of the litigation and proposed settlement"); Mayhew v. KAS Direct, LLC, No 16-cv-6981, 2018 WL 3122059 at *9-10 (S.D.N.Y. June 26, 2018) (finding that Notice administered by Angeion Group that combined direct notice with internet banner advertisements, mobile advertising, newspaper advertising, and a dedicated website provided the best notice practicable).

The proposed Notice Plan includes both direct and publication notice methods. (Settlement Agreement, Doc. No. 31-4; Weisbrot Decl. ¶¶ 14-35.) Plaintiffs propose to send the Notice to all proposed Settlement Class Members and supply chain intermediaries for whom the Parties have a mailing address by first-class U.S. mail. (Doc. No. 31 at 8-9; Schaffer Decl. ¶ 17, Doc. No. 31-2; Weisbrot Decl., Doc. No. 31-4.) Angeion Group will also use Programmatic Display Advertising and social media to reach absentee Class Members. (Doc. No. 31 at 8; Weisbrot Decl. ¶¶ 20-35.) Finally, Plaintiffs propose to establish a Settlement website and toll-free hotline to provide additional information. (Doc. No. 31 at 8-9; Weisbrot Decl., Doc. No. 31-4.) Notice will also be sent to the appropriate federal and state officials in accordance with the Class Action Fairness Act. (Settlement Agreement § 10.16, Doc. No. 31-4); 28 U.S.C. § 1715(b).

I will appoint Angeion Group, LLC to disseminate the Class Notice. As provided in the Settlement Agreement, Defendant shall pay the costs and expenses of such administration. (Doc. No. 31 at 8-9; Settlement Agreement at 2, 13-14, Doc. No. 31-4.)

E. Claims Administrator

The Parties propose that CertainTeed serve as the Claims Administrator. This is not uncommon in claims-made settlements. See In re CertainTeed Corp. Roofing Shingle Prods. Liabl. Litig., 269 F.R.D. 468, 476 (E.D. Pa. 2010); In re IKO Roofing Shingles Prods. Liabl. Litig., Case No. 09-md-2104, (C.D. Ill. Mar. 13, 2019); Roseman v. BGASC, LLC, Case No. EDCV 15-0110-VAP (SpX), 2015 WL 13752886, at *7 (C.D. Cal. Oct. 1, 2015); Lopez v. Delta Funding Corp., No. CV 98-7204, 2004 WL 7196763, at *18 (E.D.N.Y. Aug. 9, 2004).

Because allowing Defendant to proceed as Claims Administrator will reduce administrative costs, CertainTeed has experience as Claims Administrator in similar settlements, and the Parties have stipulated to amend the proposed Settlement to include an independent appeal reviewer, I will appoint CertainTeed as Claims Administrator.

F. Settlement Fairness Hearing

I will conduct a hearing on final approval and fairness of the Settlement on October 20, 2022 at in Courtroom 14A at the United States District Court for the Eastern District of Pennsylvania, James A. Byrne United States Courthouse, 601 Market Street, Philadelphia, PA 19106. At the fairness hearing, I will consider, *inter alia*, whether: (1) the Proposed Settlement is fair, reasonable, and adequate; (2) I should approve finally the Proposed Settlement; (3) I should approve awards of attorneys' fees, costs, and Class Representatives incentive awards—which are not to exceed $1,690,000 under the terms of the Settlement Agreement; and (5) I should enter a final judgment in terminating this litigation.

IV. CONCLUSION

For the reasons discussed above, Plaintiffs' Motion will be granted.

* * *

AND NOW, this 2nd day of August, 2022, upon consideration of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement (Doc. No. 31) and Defendant's Memorandum in Support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement (Doc. No. 32), as well as the arguments presented at the March 4, 2022 hearing and all related filings (see, e.g., Doc. Nos. 44–48), it is hereby **ORDERED** that Plaintiffs' Motion (Doc. No. 31) is **GRANTED** as follows:

1. This matter is **CERTIFIED conditionally** for settlement purposes as a class action on behalf of the following individuals:

   All individuals or entities that own a building in the United States on which CertainTeed Fiberglass Horizon Shingles, excluding Horizon Organic Shingles, were installed between 1995 and 2010 that are eligible for relief under the Limited Warranty applicable to the Shingles installed on their building.

   Excluded from the Class are all individuals and entities that timely opt out of this Settlement under Federal Rule of Civil Procedure 23; all persons who were or are builders, developers, contractors, installers, wholesalers, or retailers except when the Shingles are installed on their personal residence or commercial building; CertainTeed employees; and myself and any member of my immediate family.

2. Kathryn Eloff, Esq., as Personal Representative of the Estate of Kim Segebarth, and Susan Stone are **APPOINTED** as Class Representatives;

3. Charles E. Schaffer of Levin Sedran & Berman, LLP, Charles J. LaDuca of Cuneo Gilbert & LaDuca LLP, and Michael A. McShane of Audet & Partners, LLP are **APPOINTED** as Class Counsel;

4. The Settlement Agreement (Doc. No. 31-4), as amended by the Parties' Stipulation to Amend (Doc. No. 48-3), is **APPROVED preliminarily**;

5. The proposed Notice of Settlement (Settlement Agreement at 13-15, Doc. No. 31-4; Weisbrot Decl., Doc. No. 31-4.) is **APPROVED**;

6. CertainTeed LLC is **APPOINTED** as the Claims Administrator as provided in Section 7

of the Settlement Agreement and the amended Settlement Agreement. (Doc. No. 31 at 5, 8; Settlement Agreement, Doc. No. 31-4; Doc. No. 48-3.);

7. Angeion Group LLC is **APPOINTED** as the Notice Provider and shall provide Class Notice as provided in Section 10 of the Agreement. (Doc. No. 31 at 8-9; Settlement Agreement, Doc. No. 31-4);
8. The Notice Provider shall **SEND** to all Class Members by first-class U.S. mail the Class Notice and any necessary Election forms **no later than August 23, 2022**;
9. Class Counsel shall **MOVE** for attorneys' fees and costs and a service award for the Class Representatives **no later than September 2, 2022**;
10. The Notice Provider and Claims Administrator shall **JOINTLY FILE**, **no later than September 16, 2022,** a declaration confirming that the Class Notice and other required documents were sent to the Class;
11. Any Class Member who wishes to object to the Settlement Agreement, the proposed Claims Program Procedures, the Request for Attorneys' Fees and Expenses or the Class Representatives Incentive Award, or otherwise be heard concerning this settlement shall **FILE** an Objection with the Court. The Objection must be postmarked **no later than October 3, 2022**. The Objection must set forth: (1) the Objector's name and contact information; (2) the name and address of Objector's counsel (if represented); (3) a written statement of any objections to the Settlement; and (4) the signature of the Objector (or his or her attorney). Any Class Member who fails to make his or her objection in this manner shall be deemed to have **WAIVED** such objection;
12. Plaintiffs shall **FILE**, **no later than October 18, 2022,** their Motion for Final Approval; and

13. A hearing on final approval and fairness of the Settlement shall be held on **November 3, 2022** at **1:00 p.m.** in Courtroom 14A at the United States Courthouse, 601 Market Street, Philadelphia, PA 19106.

AND IT IS SO ORDERED.

/s/ Paul S. Diamond
Paul S. Diamond, J.